

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**MISC.CIVIL APPLICATION - FOR TRANSFER No. 420 of 2006****For Approval and Signature:****HONOURABLE MR.JUSTICE M.R. SHAH**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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SHITAL KALPESHBHAI MANKAD - Applicant(s)
Versus
KALPESHBHAI BHARATBHAI MANKAD - Opponent(s)

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Appearance :

MR NL RAMNANI for Applicant(s) : 1,
MR PM VYAS for Opponent(s) : 1,
MR HIREN P VYAS for Opponent(s) : 1,
MS SEJAL H VYAS for Opponent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**Date : 03/04/2006****ORAL JUDGMENT**

1. The present application is filed by the applicant wife - original opponent of Family Suit

No.602 of 2005 pending before the Family Court at Ahmedabad for transfer of the said suit to the Court of learned Civil Judge (SD), Junagadh by exercise of the powers under Section-24 of the Code of Civil Procedure.

2. It is the contention on behalf of the applicant that she is a lady and belonging to the middle class family and her parents are settled at Junagadh and she is residing with her parents at Junagadh and that the distance between Junagadh and Ahmedabad is more than 350 kms. It is the contention on behalf of the petitioner - applicant that she has been driven out of the marriage life and society and she is deserted. It is further submitted that it is difficult for her to meet with travel expenses etc. in absence of any other income and even prior to filing of the present family suit No.602 of 2005 by the respondent No.2 herein before the Family Court at Ahmedabad, the proceedings are already initiated

by the petitioner in the Court at Junagadh and as a counter blast the present proceedings are initiated to pressurize the applicant to agree for divorce.

3. The application is opposed by the respondent through the learned advocate Ms.Sejal Vyas. She submitted that merely because the distance between Ahmedabad and Junagadh is more than 350 km is not a valid ground to transfer the proceedings / application from Ahmedabad to Junagadh. Affidavit-in-reply is also filed on behalf of the respondent. She has also disputed that the applicant is not having any dispute.

4. Heard the learned advocate appearing on behalf of the parties.

5. It is not in dispute that the applicant is residing at Junagadh and the proceedings are initiated by the respondent husband at Ahmedabad

and the distance between Ahmedabad and Junagadh is more than 350 kms. It is also not in dispute that the applicant is wife and it is the contention on behalf of the petitioner that the petitioner has already initiated the proceedings in the Court at Junagadh much prior to the proceedings which now initiated by the respondent at Family Court at Ahmedabad and only with a view to harass the petitioner and pressurize the petitioner for divorce, the proceedings are initiated at Family Court at Ahmedabad. However, considering the fact that the applicant is lady and the distance between Ahmedabad and Junagadh is more than 350 kms and if the proceedings are not transferred to Junagadh, then the petitioner wife is likely to suffer severe difficulties and therefore, under the circumstances, the present application is required to be allowed.

6. For the reasons stated above, the application is allowed. The Family Suit No.602 of 2005

pending in the Family Court, Ahmedabad is directed to be transferred to the court of learned Civil Judge (SD), Junagadh. This present application is accordingly allowed.

7. Rule is made absolute to the aforesaid extent, however, there shall be no order as to costs.

[M.R.Shah, J.]

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